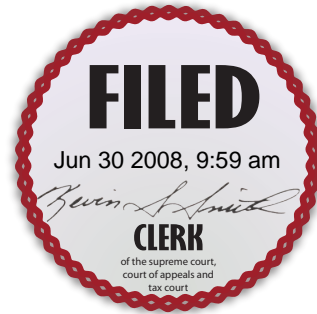


Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE
COURT OF APPEALS OF INDIANA**

YURI ZAVODNIK,

Appellant-Defendant,

vs.

STATE OF INDIANA,

Appellee-Plaintiff.

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No. 49A02-0712-CR-1072

APPEAL FROM THE MARION SUPERIOR COURT

The Honorable Annie Christ-Garcia, Judge

Cause No.49G17-0706-CM-105618

June 30, 2008

MEMORANDUM DECISION - NOT FOR PUBLICATION

ROBB, Judge

Case Summary and Issue

Following a bench trial, Yuri Zavodnik appeals his conviction of domestic battery, a Class A misdemeanor. On appeal, Zavodnik raises one issue, which we restate as whether sufficient evidence supports his conviction. Concluding that sufficient evidence supports Zavodnik's conviction, we affirm.

Facts and Procedural History

On the evening of June 8, 2007, Zavodnik and Tatyana Zavodnik, his wife of thirty-six years, got into an argument about the temperature setting on the thermostat. Zavodnik ended up striking Tatyana in the back with his fist. Tatyana confirmed this blow was "very painful" and made her cry. Transcript at 10. The couple's son, Gersh, observed Tatyana crying and contacted the police shortly thereafter.

The State charged Zavodnik with domestic battery and battery, both Class A misdemeanors. At trial, Tatyana and Gersh testified to the events described above, and Zavodnik testified to his version of the events, specifically denying that he struck his wife. The trial court found Zavodnik guilty of both charges, but entered a judgment of conviction on the domestic battery charge only. Zavodnik now appeals.

Discussion and Decision

Zavodnik argues insufficient evidence supports his domestic battery conviction. In reviewing challenges to the sufficiency of the evidence, "appellate courts must consider only the probative evidence and reasonable inferences supporting the verdict." McHenry v. State, 820 N.E.2d 124, 126 (Ind. 2005). It is the trier of fact's duty to weigh the evidence to determine whether the State has proved each element of the offense

beyond a reasonable doubt. Wright v. State, 828 N.E.2d 904, 906 (Ind. 2005). Accordingly, we “must affirm ‘if the probative evidence and reasonable inferences drawn from the evidence could have allowed a reasonable trier of fact to find the defendant guilty beyond a reasonable doubt.’” McHenry, 820 N.E.2d at 126 (quoting Tobar v. State, 740 N.E.2d 109, 111-12 (Ind. 2000)).

To convict Zavodnik of domestic battery as a Class A misdemeanor, the State had to prove beyond a reasonable doubt that Zavodnik knowingly or intentionally touched his spouse, Tatyana, in a rude, insolent, or angry manner and that the touching resulted in bodily injury. See Ind. Code § 35-42-2-1.3(a). Indiana Code section 35-41-1-4 defines bodily injury as “any impairment of physical condition, including physical pain.”

Zavodnik argues initially that insufficient evidence supports his conviction because “[t]here was no evidence presented by the State that conclusively proven [sic] Mr. Zavodnik touched Mrs. Zavodnik in a rude, insolent, or angry manner.” Appellant’s Brief at 3. The State was not required to conclusively prove Zavodnik’s guilt; instead, as Zavodnik acknowledges in the next sentence, “the evidence must support a conclusion beyond a reasonable doubt.” Id. (citation omitted). Next, relying on Vest v. State, 621 N.E.2d 1094 (Ind. 1993), Zavodnik argues insufficient evidence supports his conviction because “[t]here was no verification of Mrs. Zavodnik being touched by Mr. Zavodnik in a rude, insolent, or angry manner, only her bare testimony.” Id. at 4. Zavodnik’s reliance on Vest is misplaced because the evidence in that case was circumstantial, see 621 N.E.2d at 1096, whereas here the State relied on direct evidence, namely, Tatyana’s testimony that she was Zavodnik’s wife, that Zavodnik struck her, and that she

experienced pain as a result. This “bare testimony” is all that is required to affirm Zavodnik’s conviction. See Brasher v. State, 746 N.E.2d 71, 72 (Ind. 2001) (“It is well established that the testimony of a single eye witness is sufficient to sustain a conviction.”).

Conclusion

Sufficient evidence supports Zavodnik’s conviction of domestic battery.

Affirmed.

BAKER, C.J., and RILEY, J., concur.